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Gregory J. Koerner Redwood Patent Law 1291 East Hillsdale Boulevard Suite 205 Foster City, CA 94404			JERABEK, KELLY L.	
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BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

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*Ex parte* NEAL JACOB MANOWITZ and JOHN TREE

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Appeal 2007-3603  
Application 09/782,067  
Technology Center 2600

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Decided: March 31, 2008

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Before ROBERT E. NAPPI, MARC S. HOFF, and KARL D. EASTHOM,  
*Administrative Patent Judges.*

NAPPI, *Administrative Patent Judge.*

DECISION ON APPEAL

This is a decision on appeal under 35 U.S.C. § 6 of the final rejection of claims 1 through 19.

We reverse the Examiner's rejections of these claims.

INVENTION

The invention is directed to a digital camera system that includes a digital camera and a server at a predetermined remote location. The remote location uploads digital image data from the camera and downloads

advertising data to the camera. See pages 2 and 3 of Appellants' Specification. Claim 1 is representative of the invention and reproduced below:

1. A system for transmitting image data comprising:
  - a remote storage device for receiving image data; and
  - a digital camera configured to send the image data exclusively to the remote storage device and to receive advertising data exclusively from the remote storage device.

#### REFERENCES

Krishan	US 6,442,529 B1	Aug. 27, 2002
Steinberg	US 2002/0041329 A1	Apr. 11, 2002

#### REJECTIONS AT ISSUE

Claims 1 through 4 and 9 through 11 stand rejected under 35 U.S.C. § 102(e) as being anticipated by Steinberg. The Examiner's rejection is on pages 4 through 8 of the Answer.

Claims 5 through 8 and 12 through 19 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Steinberg in view of Krishan. The Examiner's rejection is on pages 8 through 14 of the Answer.

Throughout the opinion, we make reference to the Brief (received August 14, 2006) and the Answer (mailed October 20, 2006) for the respective details thereof.

## ISSUES

Appellants contend, on pages 5 through 10 of the Brief, that the Examiner's rejection under 35 U.S.C. § 102(e) is in error. Appellants argue that claim 1 recites a digital camera to send image data exclusively to a remote terminal, and that Steinberg does not teach that the camera sends image data to the remote server. Br. 5 and 6. Appellants present similar arguments directed to independent claim 9 on pages 8 and 9 of the Brief.

Appellants contend, on pages 12 through 16 of the Brief that the Examiner's rejection under 35 U.S.C. § 103(a) is in error. On page 13 of the Brief, Appellants argue the rejection is in error for the same reasons argued with respect to the rejection based upon 35 U.S.C. § 102(e).

The Examiner states on pages 15 and 16 of the Answer:

The Examiner maintains that the term "image data" does not constitute pixel information that is directly picked up by an image sensor. The term "image data" may refer to any data that is representative of the images captured by a camera. Therefore, the Examiner is reading the data as indicating the quantity of images obtained and the type of images obtained as "image data" since it is data that is representative of the images captured by a camera.

The Examiner cites page 3, paragraph 39 of Steinberg as teaching uploading the image data.

Thus, the contentions of Appellants present us with the issue of whether Steinberg teaches a digital camera to send image data exclusively to a remote terminal, as claimed in independent claims 1 and 9.

## FINDINGS OF FACT

1. Appellants' Specification states on page 7:

The sensor 310 converts analog data into electronic image data. The sensor 310 can utilize technologies such as charge couple devices, CMOS sensors, and the like. In this embodiment, the storage device 320 stores the image data from the sensor 310. The image data is transmitted from the sensor 310 to the storage device 320 via the dataline 315.

2. Steinberg teaches a system for advertising by sending messages to digital cameras. These messages are sent by a message center which keeps records camera of purchasers and corresponding camera identification. The message center prepares and sends personal messages for a particular camera and its user. Abstract.
3. The messages are transmitted to the camera from the message center in various manners including radio frequency transmission. Steinberg, Para. 0033.
4. The message center transmits the messages to the camera in response to receiving a camera identification signal from the camera. Steinberg, Para. 0037.
5. The camera and its user may be subscribed to receive different categories of messages. The subscription process may include an interactive process where yes/no questions are addressed through the camera interfaces or a questionnaire at the time of the camera's purchase. Steinberg, Para. 0039.
6. The messages may also be selected based upon a user profile that is based upon information such as quantity of images taken, and type of images taken. Steinberg is silent as to

how this information is transmitted to the message center.  
Steinberg, Para. 0039.

## PRINCIPLES OF LAW

Office personnel must rely on Appellants' disclosure to properly determine the meaning of the terms used in the claims. *Markman v. Westview Instruments, Inc.*, 52 F.3d 967, 980 (Fed. Cir. 1995). “[I]nterpreting what is *meant* by a word *in* a claim ‘is not to be confused with adding an extraneous limitation appearing in the specification, which is improper.’” *In re Cruciferous Sprout Litigation*, 301 F.3d 1343, 1348 (Fed. Cir. 2002)(emphasis in original) (citing *Intervet Am., Inc. v. Kee-Vet Labs., Inc.*, 887 F.2d 1050, 1053 (Fed. Cir. 1989)).

## ANALYSIS

We consider the Examiner's rejection of claims 1 through 4 and 9 through 11 under 35 U.S.C. § 102(e) to be in error, as we disagree with the Examiner's claim interpretation. Independent claim 1 recites “a digital camera configured to send the image data exclusively to the remote storage device.” Independent claim 9 recites “an interface connected to the buffer configured to upload the image data from the digital camera to an exclusive and predetermined remote location.” Thus, both independent claims 1 and 9 recite sending or uploading image data to a remote location. Appellants' Specification discusses “image data” as being data from the image sensor. Fact 1. Thus, contrary to the Examiner's statement on pages 15 and 16 of the Answer, within the context of the application, we consider “image data”

to be data from the image sensor. As such, we consider the scope of independent claims 1 and 9 to include that the camera sends or uploads data from the image sensor to the remote location.

The Examiner, in rejecting independent claims 1 and 9, cites to paragraph 39 of Steinberg as teaching the camera sending or uploading “image data” to the remote location. Answer 16. We disagree with the Examiner for two reasons. First, as discussed above, the term image data within the context of the application refers to data from the image sensor and data as indicating the quality of image obtained and the type of images obtained. Second, the Examiner has not found, nor do we find that, Steinberg teaches that the camera sends or uploads data from the image sensor, “image data,” to a remote location. Fact 6. Accordingly, we will not sustain the Examiner’s rejection of independent claims 1 and 9, and dependent claims 2 through 4, 10, and 11 under 35 U.S.C. § 102(e).

Similarly, we consider the Examiner’s rejection of claims 5 through 8 and 12 through 19 under 35 U.S.C. § 103(a) to be in error, as we disagree with the Examiner’s claim interpretation. Independent claim 5 recites “uploading image data from a digital camera solely to an exclusive and predetermined remote location.” Thus, the scope of independent claim 5 similarly includes that the camera uploads data from the image sensor to the remote location. As discussed with respect to claims 1 and 9, we do not find that Steinberg teaches this limitation. Further, the Examiner has not found, nor do we find, that Krishan teaches or suggests to the skilled artisan, modifying Steinberg to include such a feature. Accordingly, we will not sustain the Examiner’s rejection of independent claim 5 or dependent claims 6 through 8 and 12 through 19 under 35 U.S.C. § 103(a).

ORDER

For the foregoing reasons, we will not sustain the Examiner's rejections under 35 U.S.C. § 102(e) and 35 U.S.C. § 103(a). The decision of the Examiner is reversed.

REVERSED

tdl/gw

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